

AMENDMENT TO THE CALIFORNIA RULES OF COURT  
Adopted by the Supreme Court on November 21, 2023, effective December 1, 2023

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1 **Rule 9.11. State Bar Court Judges**

2  
3 **(a) Applicant Evaluation and Nomination Committee**

4  
5 (1) In order to ensure that individuals appointed by the Supreme Court or by the  
6 executive or legislative branches have been evaluated objectively, the  
7 Supreme Court has established an independent Applicant Evaluation and  
8 Nomination Committee (committee) to solicit, receive, screen, and evaluate  
9 all applications for appointment or reappointment to any position of judge of  
10 the State Bar Court (hearing judge, presiding judge, and review department  
11 judge). The role of the committee is to determine whether appointees possess  
12 not only the statutorily enumerated qualifications, but also any qualifications  
13 that may be required by the Supreme Court to assist in the exercise of its  
14 ultimate authority over the discipline and admission of attorneys (see *Obrien*  
15 *v. Jones* (2000) 23 Cal.4th 40; *In re Attorney Discipline System* (1998) 19  
16 Cal.4th 582; Cal. Const., art. VI, sec. 9).

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18  
19 (2) The committee serves at the pleasure of the Supreme Court. It shall consist of  
20 seven members appointed by the court of whom no more than four may be  
21 licensees of the State Bar in good standing, two must be retired or active  
22 judicial officers, and no more than three may be public members who have  
23 never been a licensees of the State Bar or admitted to practice before any  
24 court in the United States. Two members of the committee must be present  
25 members of the Board of Trustees of the State Bar.

26  
27 (3) The committee must adopt, and implement upon approval by the Supreme  
28 Court, procedures for:

29  
30 (A) Timely notice to potential applicants of vacancies;

31  
32 (B) Receipt of applications for appointments to those positions from both  
33 incumbents and other qualified persons;

34  
35 (C) Solicitation and receipt of public comment;

36  
37 (D) Identification and collection of actual and potential conflicts of interest  
38 for those applicants selected for interviews by the committee. These  
39 procedures, at a minimum, must require these applicants to  
40 confidentially disclose any financial and nonfinancial interests that  
41 might affect or might be affected by service by the applicant as a State  
42 Bar Court judge and a list of attorneys whom each applicant would

1 identify as creating a conflict in any future service by the applicant as a  
2 State Bar Court judge;

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4 ~~(D)~~(E) Evaluation and rating of applicants; and

5  
6 ~~(E)~~(F) Transmittal of the materials specified in (b) of this rule to the Supreme  
7 Court and, as applicable, other appointing authorities.

8  
9 The procedures adopted by the committee must include provisions to ensure  
10 confidentiality comparable to those followed by the Judicial Nominees  
11 Evaluation Commission established under Government Code section  
12 12011.5.

- 13  
14 (4) The Board of Trustees of the State Bar, in consultation with the Supreme  
15 Court if necessary, must provide facilities and support staff needed by the  
16 committee to carry out its obligations under this rule.

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18 *(Subd (a) amended effective December 1, 2023; previously amended effective February 15, 1995,*  
19 *July 1, 2000, January 1, 2007, January 1, 2009 January 1, 2019, and July 1, 2022.)*

20  
21 **(b) Evaluations**

- 22  
23 (1) The committee must evaluate the qualifications of and rate all applicants for  
24 positions appointed by the Supreme Court and must submit to the Supreme  
25 Court the nominations of at least two candidates for each vacancy. Candidates  
26 shall be rated as "not recommended," "recommended," or "highly  
27 recommended." A rating of "not recommended" relates only to the position  
28 under consideration and does not indicate any lack of ability or expertise of  
29 the applicant generally. The committee must report in confidence to the  
30 Supreme Court its evaluation, rating, and recommendation for applicants for  
31 appointment and the reasons therefore, including a succinct summary of their  
32 qualifications, at a time to be designated by the Supreme Court. The report  
33 must include written comments received by the committee, which must be  
34 transmitted to the Supreme Court together with the nominations.

- 35  
36 (2) The committee must evaluate the qualifications of and rate all applicants for  
37 positions appointed by the Governor, the Senate Committee on Rules, or the  
38 Speaker of the Assembly, and must submit in confidence to the Supreme  
39 Court and, as applicable, to other appointing authorities, all applications for  
40 such positions together with the committee's evaluation, rating, and  
41 recommendation for these applicants, including any written comments  
42 received by the committee, at a time to be designated by the Supreme Court.

1 (3) In determining the qualifications of an applicant for appointment or  
2 reappointment the committee must consider, among other appropriate factors,  
3 the following: industry, legal and judicial experience (including prior service  
4 as a judge of the State Bar Court), judicial temperament, honesty, objectivity,  
5 community respect, integrity, and ability. The committee must consider legal  
6 work experience broadly, including, but not limited to, litigation and non-  
7 litigation experience, legal work for a business or nonprofit entity, experience  
8 as a law professor or other academic position, legal work in any of the three  
9 branches of government, and legal work in dispute resolution.

10  
11 The committee shall consider whether an applicant has demonstrated the  
12 ability to write cogently and to analyze legal provisions and principles.  
13 Among the issues the committee may also consider are (1) the applicant's  
14 demonstrated capacity to work independently and to set and meet  
15 performance goals, (2) the applicant's knowledge and experience relevant to  
16 issues that give rise to the majority of State Bar Court proceedings, including  
17 professional ethics and fiduciary obligations, (3) knowledge of practice and  
18 demeanor in the courtroom, and (4) whether the applicant has been in  
19 practice for 10 or more years. The committee shall accord weight to all  
20 experience that has provided the applicant with legal experience and exposure  
21 during which the individual has demonstrated the underlying skills necessary  
22 to serve as an effective State Bar Court judge. The committee shall apply the  
23 same criteria to candidates seeking appointment from all of the appointing  
24 authorities. Any evaluation or rating of an applicant and any recommendation  
25 for appointment or reappointment by the committee must be made in  
26 conformity with Business and Professions Code section 6079.1(b) and in  
27 light of the factors specified in Government Code section 12011.5(d), and  
28 those specified in this paragraph.

29  
30 (4) The committee must use the information obtained under the procedures  
31 developed pursuant to (a)(3)(D) of this rule to evaluate the actual or potential  
32 conflicts of interest of applicants selected for interviews. The committee  
33 shall consider whether the applicant's actual or potential conflicts of interest  
34 should disqualify the applicant or reduce the applicant's rating under  
35 (a)(3)(E) of this rule. In making this determination, the committee shall  
36 consider whether the applicant has financial or nonfinancial interests or  
37 relationships with other attorneys that may impact the applicant's ability to  
38 perform the duties of a State Bar Court judge in a manner that avoids  
39 impropriety, the appearance of impropriety, or frequent disqualification. The  
40 committee shall include its determination on this issue in the report to the  
41 Supreme Court required under (b)(1) of this rule, and, as applicable, to other  
42 appointing authorities under (b)(2) of this rule.  
43

1 (4)(5) Upon transmittal of its report to the Supreme Court under (b)(1) of this rule,  
2 and, as applicable, to other appointing authorities under (b)(2) of this rule, the  
3 committee must notify any incumbent who has applied for reappointment by  
4 the Supreme Court if he or she is or is not among the applicants  
5 recommended for appointment to the new term by the committee. The  
6 applicable appointing authority must notify as soon as possible an incumbent  
7 who has applied for reappointment but is not selected.  
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9 *(Subd (b) amended effective December 1, 2023; adopted effective February 15, 1995; previously*  
10 *amended effective July 1, 2000, January 1, 2007, January 1, 2009, and July 1, 2022.)*  
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12 **(c) Appointments**

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14 Only applicants who are rated as recommended or highly recommended by the  
15 committee or by the Supreme Court may be appointed. At the request of the  
16 Governor, the Senate Committee on Rules, or the Speaker of the Assembly, the  
17 Supreme Court will reconsider a finding by the committee that a particular  
18 applicant is not recommended. The Supreme Court may make such orders as to the  
19 appointment of applicants as it deems appropriate, including extending the term of  
20 incumbent judges pending such order or providing for staggered terms.  
21

22 **(d) Discipline for misconduct or disability**

23  
24 A judge of the State Bar Court is subject to discipline or retirement on the same  
25 grounds as a judge of a court of this state. Complaints concerning the conduct of a  
26 judge of the State Bar Court must be addressed to the Executive Director-Chief  
27 Counsel of the Commission on Judicial Performance, who is the Supreme Court's  
28 investigator for the purpose of evaluating those complaints, conducting any  
29 necessary further investigation, and determining whether formal proceedings  
30 should be instituted. If there is reasonable cause to institute formal proceedings, the  
31 investigator must notify the Supreme Court of that fact and must serve as or  
32 appoint the examiner and make other appointments and arrangements necessary for  
33 the hearing. The Supreme Court will then appoint one or more active or retired  
34 judges of superior courts or Courts of Appeal as its special master or masters to  
35 hear the complaint and the results of the investigation, and to report to the Supreme  
36 Court on the resulting findings, conclusions, and recommendations as to discipline.  
37 The procedures of the Commission on Judicial Performance must be followed by  
38 the investigator and special masters, to the extent feasible. The procedures in the  
39 Supreme Court after a discipline recommendation is filed will, to the extent  
40 feasible, be the same as the procedures followed when a determination of the  
41 Commission on Judicial Performance is filed.  
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1 *Rule 9.11 amended effective December 1, 2023; adopted as rule 961 effective December 1, 1990;*  
2 *previously amended February 15, 1995, July 1, 2000, January 1, 2009, January 1, 2019, and July*  
3 *1, 2022; previously amended and renumbered effective January 1, 2007*

4  
5 **Rule 9.90. Nominations and Appointments of State Bar Trustees**

6  
7 **(a) State Bar Trustees Nominating Committee**

8  
9 (1) The Supreme Court appoints five attorneys to the State Bar Board of  
10 Trustees, each for a four-year term. The court may reappoint an attorney for  
11 one additional term. The court may also fill any vacancy in the term of, and  
12 make any reappointment of, any appointed attorney member. Each appointee  
13 must be an active licensee of the State Bar and have his or her principal office  
14 in California.

15  
16 (2) In order to ensure that individuals appointed by the Supreme Court to the  
17 State Bar Board of Trustees have been evaluated objectively, the court has  
18 established an independent "State Bar Trustees Nominating Committee"  
19 (committee) to receive applications and screen and evaluate prospective  
20 appointees. The role of the committee is to determine whether applicants  
21 possess not only the statutorily enumerated qualifications, but also any other  
22 qualifications that may be required to carry out the duties of the Board of  
23 Trustees.

24  
25 (3) The committee serves at the pleasure of the court. The committee will consist  
26 of seven members appointed by the court of whom five must be active  
27 licensees of the State Bar in good standing, and two must be active or retired  
28 judicial officers. A committee chair and vice-chair are designated by the  
29 court. The court will seek to create a broadly representative body to assist it in  
30 its considerations.

31  
32 Except as provided below, all full terms are for three years. Members may  
33 not serve more than two consecutive full terms. Members will continue to  
34 serve until a successor is appointed. Appointments to fill a vacancy will be  
35 for the balance of the term vacated. Members who are appointed to fill a  
36 vacancy for the balance of a term are eligible to serve two full terms in  
37 addition to the remainder of the term for which they were appointed.

38  
39 To create staggered terms among the members of the committee, the Supreme  
40 Court will appoint initial members of the committee as follows:

41  
42 (A) Four members each to serve a term of three years. The court may  
43 reappoint these members to one full term.

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(B) Three members each to serve a term of two years. The court may reappoint these members to one full term.

(4) The committee must adopt, and implement upon approval by the Supreme Court, procedures for:

(A) Receipt of applications and initial screening of applicants for appointments to fill the vacant positions, including adoption of a comprehensive application form;

(B) Receipt of evaluations concerning selected applicants;

(C) Identification and collection of actual and potential conflicts of interest for those applicants selected for interviews by the committee. These procedures, at a minimum, must require these applicants to confidentially disclose any financial and nonfinancial interests that might affect or might be affected by service by the applicant as a Trustee and a list of attorneys whom each applicant would identify as creating a conflict in any future service by the applicant as a Trustee;

~~(C)~~(D) Evaluation and rating of applicants; and

~~(D)~~(E) Transmittal of the materials specified in (b) of this rule to the Supreme Court.

The procedures adopted by the committee must include provisions to ensure the confidentiality of its evaluations.

(5) In recommending candidates, in order to provide for the appointment of trustees who bring to the board a variety of experiences, the committee should consider:

(A) Legal services attorneys, solo practitioners, attorneys with small firms, and attorneys with governmental entities;

(B) Historically underrepresented groups, such as those underrepresented because of race, ethnicity, gender, and sexual orientation;

(C) Legal academics;

(D) Geographic distribution;

- 1 (E) Years of practice;  
2  
3 (F) Attorneys who are in their first five years of practice;  
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5 (G) Participation in voluntary local or state bar activities;  
6  
7 (H) Participation in activities to benefit the public; and  
8  
9 (I) Other factors demonstrating a background that will help inform the  
10 work of the board.

- 11  
12 (6) The State Bar must provide the support the committee requires to discharge  
13 its obligations under this rule.

14  
15 *(Subd (a) amended effective December 1, 2023; previously amended effective January 1, 2019.)*  
16

17 **(b) Evaluations**  
18

- 19 (1) The committee must evaluate the qualifications of and rate all applicants and  
20 must submit to the court the nominations of at least three qualified candidates  
21 for each vacancy. Candidates are to be rated as "not recommended,"  
22 "recommended," and "highly recommended." A rating of "not recommended"  
23 relates only to the position under consideration and does not indicate any lack  
24 of ability or expertise of the applicant generally. The committee must report  
25 in confidence to the Supreme Court its evaluation, rating, and  
26 recommendation for applicants for appointment and the reasons therefore,  
27 including a succinct summary of their qualifications, at a time to be  
28 designated by the Supreme Court. The report must include written comments  
29 regarding the nominees received by the committee, which must be  
30 transmitted to the Supreme Court together with the nominations.  
31  
32 (2) In determining the qualifications of an applicant for appointment or  
33 reappointment the committee should, in addition to the factors cited in (a)(5),  
34 consider the following: focus on the public interest, public service,  
35 commitment to the administration of justice, objectivity, community respect,  
36 integrity, ability to work collaboratively, and balanced temperament.  
37  
38 (3) The committee must use the information obtained under the procedures  
39 developed pursuant to (a)(4)(C) of this rule to evaluate the actual or potential  
40 conflicts of interest of applicants selected for interviews. The committee  
41 shall consider whether the applicant's actual or potential conflicts of interest  
42 should disqualify the applicant or reduce the applicant's rating under  
43 (a)(4)(D) of this rule. In making this determination, the committee shall



1 consider whether the applicant has financial or nonfinancial interests or  
2 relationships with other attorneys that may impact the applicant's ability to  
3 perform the duties of a Trustee with disinterested skill and undivided loyalty  
4 to the State Bar as described in Business and Professions Code section 6036,  
5 subdivision (b), or may impact the Board of Trustee's appearance to the  
6 public as a body that conducts its work with disinterested skill and undivided  
7 loyalty. The committee shall include its determination on this issue in the  
8 report to the Supreme Court required under (b)(1) of this rule.

9  
10 *(Subd (b) amended effective December 1, 2023.)*

11  
12 *Rule 9.90 amended effective December 1, 2023; adopted effective January 23, 2013; previously*  
13 *amended effective January 1, 2019.*